UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/22
3 December 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Item 10 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Detention of international civil servants and their families

Updated report by the Secretary-General prepared pursuant to Commission on Human Rights resolution 1992/26

CONTENTS

	Paragraphs	Page
Introduction	1 - 18	1
I. RECENT DEVELOPMENTS	19 - 69	4
A. United Nations Relief and Works Agency for Palestine Refugees in the Near East	28 - 29	7
B. United Nations Children's Fund	30 - 31	7
C. United Nations Economic Commission for Africa	32 - 44	8
D. United Nations Truce Supervision Organization	45 - 47	9
E. Food and Agriculture Organization of the United Nations	48 - 50	10

GE.92-14819 (E)

CONTENTS (continued)

		Paragraphs	Page
	F. United Nations Industrial Development Organization	51 - 55	10
	G. United Nations/FAO World Food Programme	56 - 63	11
II.	CASES RECENTLY CLARIFIED	70 - 72	13
III.	OTHER MATTERS INVOLVING THE STATUS, PRIVILEGES AND IMMUNITIES OF OFFICIALS	73 - 79	14
IV.	ACTION AND PROPOSALS TO FURTHER RESPECT THE HUMAN RIGHTS OF INTERNATIONAL CIVIL SERVANTS	80 - 100	15

Annex

Consolidated list of staff members under arrest and detention or missing and with respect to whom the United Nations and the specialized agencies and related organizations have been unable to exercise fully their right to protection 20

Introduction

1. In 1987, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities adopted resolution 1987/21 by which it expressed deep concern that some 50 staff members were detained, imprisoned, reported missing - some having even died in detention - or held in a country against their will. Conscious that the rights of United Nations staff members should be given particular attention in view of the responsibility entrusted to the Organization in the area of human rights, the Sub-Commission requested the Secretary-General to submit it, at its fortieth session, a detailed report on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, in order to enable it to consider those cases in the light of the international instruments relating to human rights.

2. At its forty-fifth session, the Commission on Human Rights adopted resolution 1989/28 on this subject. In that resolution the Commission took note of the report (E/CN.4/1989/19) by the Secretary-General as an updated version of the report on detention of staff members of the United Nations and its specialized agencies presented to the Sub-Commission (E/CN.4/Sub.2/1988/17).

3. Since then the Commission, after consideration of various reports submitted by the Secretary-General, requested him to continue his efforts to ensure that the human rights and privileges and immunities of United Nations staff members and experts and their families were fully respected and to submit to the Commission an updated report on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully settled during the year, as well as on the implementation of the measures referred to in paragraphs 3 and 4 of resolution 1989/28. 1/

4. At its forty-eighth session the Commission adopted resolution 1992/26 in which it, inter alia, requested the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of United Nations staff members, experts and their families are fully respected and to seek redress and compensation for the damage caused to those whose human rights, privileges and immunities had been violated, as well as their full integration. It also requested the Secretary-General once again to submit to the Commission at its forty-ninth session an updated version of the report. The present report is submitted pursuant to this request.

5. For its part, the Sub-Commission considered at its forty-first session the preliminary report (E/CN.4/Sub.2/1989/28), entitled "Protection of the human rights of United Nations staff members, experts and their families" submitted by Mrs. Mary C. Bautista pursuant to its resolution 1988/9. The Sub-Commission adopted resolution 1989/30 in which it invited Mrs. Bautista to continue her study and to submit a report to the Sub-Commission at its

---

1/ The reports submitted by the Secretary-General are contained in documents E/CN.4/Sub.2/1988/17, E/CN.4/1989/19, E/CN.4/1990/14 and E/CN.4/1991/18.

forty-second session, with proposals for practical measures to improve the present system and ensure that staff members of the United Nations and the specialized agencies were protected.

6. Mrs. Bautista presented her updated report (E/CN.4/Sub.2/1990/30) to the Sub-Commission at its forty-second session. In its introduction the report contained an analytical survey of the problems in its various dimensions, including the legal rights of the United Nations in cases of arrest or detention of staff members.

7. Pursuant to Sub-Commission resolution 1990/20, Mrs. Bautista requested the Governments of Afghanistan, Chad, Ethiopia, Israel, Jordan, Nepal, Somalia and the Syrian Arab Republic to provide her with any information or comments they might have with regard to staff members who, to her knowledge, were being held in detention in those countries. She also requested the United Nations Security Coordinator and the heads of specialized agencies and other intergovernmental organizations to provide her with information on the violations of human rights of staff members and their families, as well as on resolved and pending cases of violations of human rights of those persons, on steps which had been taken to assist them and possible suggestions on how to avoid the recurrence of such incidents. Information was also requested on the matters raised in paragraphs 3 and 4 of Sub-Commission resolution 1989/30.

8. In the same resolution Mrs. Bautista was requested to submit a final version of her report to the Sub-Commission at its forty-third session. However, in view of the fact that only a few additional replies had been received, the Special Rapporteur requested the Sub-Commission's authorization to defer her final report (E/CN.4/Sub.2/1991/23, para. 12).

9. In its resolution 1991/17, the Sub-Commission noted with regret the limited number of replies received from Governments and organizations of the United Nations system and requested the Secretary-General to redouble his efforts to ensure that the human rights and privileges and immunities of the personnel of the United Nations system and their families, as well as experts and consultants, were fully respected. The Sub-Commission invited the Special Rapporteur to submit a final report at its forty-fourth session, including practical recommendations for measures to improve, on a long-term basis, the protection of personnel of the United Nations system and their families, as well as experts and consultants.

10. In accordance with paragraph 6 of Sub-Commission resolution 1991/17, the Special Rapporteur once again addressed, on 16 December 1991, notes verbales to Governments and letters to the Secretary-General of the United Nations and to the heads of specialized agencies requesting additional information. Replies were received from the Governments of Chile, China, Israel, Pakistan, Sudan and the Syrian Arab Republic. The United Nations Security Coordinator also replied. In addition, replies were received from the United Nations Development Programme, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Economic Commission for Latin America and the Caribbean, the United Nations Industrial Development Organization and the World Meteorological Organization.

11. The Special Rapporteur submitted her final report to the forty-fourth session of the Sub-Commission in August 1992 (E/CN.4/Sub.2/1992/19), incorporating a set of recommendations which will be reflected elsewhere in this report (see section IV below).

12. The Special Rapporteur pointed out that the submission of a final report by no means implied that an adequate solution had been found to the problem in question. She noted that ad hoc measures had been taken by the administrations of the various organizations in the United Nations system to rehabilitate and reintegrate some staff members whose rights had been violated. In addition, she noted that following the landmark decision of the United Nations Administrative Tribunal, No. 482 of 25 May 1990 on secondment, confidence in the principle of the independence of international civil servants had gradually been restored and Articles 100 and 105 of the Charter reaffirmed.

13. The Sub-Commission subsequently adopted resolution 1992/24 in which it recommended to the Commission on Human Rights that it request the existing human rights machinery, including the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearance, the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, to examine the cases involving the human rights of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants, and to transmit the relevant parts of their respective reports to the Secretary-General for inclusion in his report to the Commission on Human Rights under item 10 of its agenda.

14. The Sub-Commission in addition requested the Secretary-General to present a report annually to the Third Committee of the General Assembly on the implementation of the protective measures and on redress for the possible harm caused.

15. The General Assembly, in its resolution 45/240 of 21 December 1990, took note with grave concern of the report of the Secretary-General (A/C.5/45/10 and Corr.1) and of the developments indicated therein, in particular the significant number of new cases of arrest and detention and those regarding previously reported cases under that category. In the same resolution, the General Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, as well as the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions. The Assembly urged the Secretary-General to give priority to the reporting and prompt follow-up of cases of arrest, detention and other possible matters relating to the security and proper functioning of officials of the United Nations and the specialized agencies and related organizations.

16. Subsequently, the Secretary-General submitted to the General Assembly at its forty-sixth session his report "Personal questions: respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations" (A/C.5/46/4). However, pursuant to General Assembly resolution 46/220 on the rationalization of work of the Fifth Committee, the Assembly decided to adopt the biennial approach

for matters related to personnel questions and no resolution was adopted at the forty-sixth session.

17. The report of the Secretary-General to the General Assembly at its forty-seventh session (A/C.5/47/14) has therefore been submitted pursuant to the same Assembly resolution, 45/240 of 21 December 1990. The Assembly also had before it a note by the Secretary-General containing the views of the staff representatives of the United Nations Secretariat (A/C.5/47/20). Information from these two documents is reflected in the present report.

18. In the light of the above-mentioned developments and in compliance with Commission on Human Rights resolution 1992/26, the present report deals with the situation of staff members of various United Nations secretariats in chapter I. Chapter II describes cases recently clarified. Other matters involving status, privileges and immunities of officials are described in chapter III. Chapter IV focuses on the action and proposals to further respect the human rights of international civil servants.

I. RECENT DEVELOPMENTS

Statements by the Secretary-General

19. Upon his taking office, Mr. Boutros Boutros-Ghali made a statement to members of the staff on 22 January 1992 (SG/SM/4688) in which he stated, inter alia:

> "I want you all to know that the safety and security of the staff is a matter of the greatest important for me personally. I cannot stress this strongly enough. I am deeply concerned that over a hundred staff members are now being kept under detention or are in prison. I intend to do my utmost to work for their release."

20. In a statement on Staff Day (11 September 1992) the Secretary-General reiterated his concern and stated, inter alia:

> "I have made it clear to Member States that, unless security is ensured, staff will not be able to fulfil their duties and the missions entrusted to the Organization may be jeopardized. I wish to stress that I will continue to do my utmost to ensure the safety of all staff." (IC/Geneva/3883)

21. In a related development, the Secretary-General also touched upon the issue of staff security in his report of 17 June 1992 to the Security Council (A/47/277). In this connection he recommended that the Security Council "... gravely consider what action should be taken towards those who put United Nations personnel in danger".

22. In a statement before the Fifth Committee of the General Assembly on 6 November 1992, the Secretary-General stated, inter alia:

> "The staff also deserves every measure of security that Member States can muster ... Some staff are illegally threatened, abused or detained. Member States should respect and strictly enforce the international legal instruments and undertakings which are meant to protect United Nations staff in the performance of their functions."

Statement by the Legal Counsel

23. In a statement before the Fifth Committee, on 30 October 1992, the Legal Counsel stated, inter alia,

> "It goes without saying that, at present, the question of safety and security of staff has acquired particular importance ..."

It is noted with regret in the report that

> "despite all efforts to ensure the safety and security of staff, as of the date of issuance of the report there have been 11 fatalities among staff members belonging to different organizations. Although the current report covers, as is usual, a one-year period up to 30 June 1992, it was decided that due to the gravity of those fatalities the information about all of them, including those which occurred after 30 June 1992, should be incorporated in the report. In connection with the two most recent fatalities of staff members of the United Nations Children's Fund - Mr. Myint Maung and Mr. Francis Ngure - the Secretary-General sent a high-level mission to the area to review the circumstances leading to these tragic incidents."

24. The Legal Counsel also referred to cases of arrest, detention and abduction of officials which had always been and continue to be a matter of great concern to the Secretary-General and the respective heads of the organizations concerned. Although the number of new cases of arrested or detained staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East had been lower during the reporting period in comparison with previous years, the number still remains high. Besides, there had been no progress in respect of several long-standing cases referred to in paragraph 12 of the report, including the cases of two staff members who have remained in detention since 1980. Only two long-standing cases had been successfully resolved during the period under review. Therefore, despite the fact that there has been a relative decrease in the number of cases of arrested or detained staff members of UNRWA, the general situation with arrested and detained staff members remains far from satisfactory. In addition, the Legal Counsel referred to difficulties which staff members of UNRWA continued to experience in the movement into and out of the West Bank and the Gaza Strip.

Statement by the Assistant Secretary-General for Human Resources Management

25. In a statement to the Fifth Committee on 26 October 1992, the United Nations Security Coordinator expressed deep concern that as the United Nations system was expected to become involved in more complicated operations worldwide, the United Nations might no longer be in a position to ensure the minimum standards of safety and security for its staff. He made reference to arrest and detention of staff and stated that the Organization, with the help of Member States "must continue to make efforts to obtain the release of colleagues who are either detained or imprisoned in violation of the Convention on Privileges and Immunities. It is imperative that staff be able to perform their duties with the full assurance that their legal and human rights be respected".

Report of the Secretary-General to the General Assembly

26. The Secretary-General, in his report (A/C.5/47/14), covered the period 1 July 1991 to 30 June 1992 and focused, inter alia, on cases involving arrest, detention and abduction of officials and other matters involving the status, privileges and immunities of officials. The report included a consolidated list (annex I) of 45 staff members under arrest and detention, missing or abducted and with respect to whom the United Nations and the specialized agencies and related organizations have been unable to exercise fully their right to protection. The report also contained information (annex II) on this subject submitted by the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations Children's Fund, the United Nations Economic Commission for Africa, the United Nations Truce Supervision Organization, the Food and Agriculture Organization of the United Nations, the United Nations Industrial Development Organization, and the World Food Programme. As in previous years, the report was based on information obtained from United Nations subsidiary organs, offices or commissions as well as specialized agencies and related organizations. The report of the Secretary-General also contained information on restrictions on official and private travel of officials of the United Nations, the specialized agencies and related organizations, and on taxation of officials.

27. The Secretary-General stated that during the reporting period, the number of new cases of arrest and detention officials was lower than in the previous year. This was due to the fact that there was a decline in the number of arrested and detained staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. In spite of a relative decrease in a number of cases of arrested or detained staff members of UNRWA, this number was still high and, therefore, remained a matter of great concern. It was worth noting in this regard, the report continued, that of 66 staff members of UNRWA who were arrested or detained during the reporting period, 49 staff members were arrested and subsequently released without charge or trial: 7 in Jordan, 1 in Lebanon, 30 in the occupied Gaza Strip and 11 in the occupied West Bank. In addition, in Lebanon two UNRWA staff members were detained and then released by militias and unknown elements. At the time of submission of the information for the present report UNRWA had not yet received any reports regarding the release of any of its staff members by the Israeli authorities in the course of the recent detainee releases. Cases of mistreatment of staff members in detention in the occupied territory were a

cause of concern to UNRWA during the reporting period. Detailed information on this subject may be obtained from the report of the Commissioner-General of UNRWA to the forty-seventh session of the General Assembly (A/47/13).

A. United Nations Relief and Works Agency for Palestine Refugees in the Near East

28. With regard to the activities of UNWRA, the report stated, in particular, that in comparison with the relatively high levels of recent years, there was a decline in the number of staff members in the occupied territory arrested and held in detention without trial. During the period 1 July 1991 to 30 June 1992, 66 UNRWA staff were arrested or detained, of whom three were arrested and detained more than once. Of these, one staff member from the Gaza Strip was under order of deportation (though on 24 August 1992 the Israeli authorities announced the cancellation of the deportation order). Fifty-one of the 66 staff have been arrested or detained and released without charge or trial, including two held by militia groups in Lebanon. Five were charged, tried and sentenced to various terms of imprisonment. The remaining 10 were still in detention as of 30 June 1992, as follows:

Occupied Gaza Strip	8
Occupied West Bank	1
Lebanon (Syrian forces)	1
Total	10

29. In no case has UNRWA received adequate and timely information on the reasons for the arrest and detention despite requests to the authorities. UNRWA has had access to six detained staff members from the occupied West Bank and to 18 detained from the Gaza Strip. Several of these staff, however, were being held in prisons in Israel having been transferred there out of the occupied West Bank and the Gaza Strip. UNRWA was unable, despite approaches to the relevant Governments, to visit staff in detention in Jordan, Lebanon and the Syrian Arab Republic.

B. United Nations Children's Fund

30. On 7 July 1992, Mr. Roko K. Biro, a UNICEF driver attached to the UNICEF office in Juba (Sudan) was taken into custody by the local security force. In its note verbale of 12 July to the Ministry of Foreign Affairs, UNICEF requested the Ministry's assistance in obtaining the release of Mr. Biro. A further note verbale on 2 August from the United Nations Resident Coordinator requested that the Ministry provide reasons for the arrest and allow access by a representative of the United Nations to the detained staff member. The Ministry advised UNICEF on 3 August that the matter was under investigation and that the outcome of the investigation would be reported in due course. To date, no further news has been received regarding the whereabouts of Mr. Biro nor has UNICEF been given access to him.

31. The case of Ms. Roshan Beraki, a national officer working in the UNICEF office in Asmara (Ethiopia), was included in last year's report (A/C.5/46/4), annex II). Ms. Beraki was again arrested in Asmara on 17 August 1991 by the authorities of the new administration, the Provisional Government of Eritrea. The Asmara court on 24 July 1992 sentenced Ms. Beraki to three years' imprisonment. UNICEF has not been officially notified by the authorities of charges brought against her, but just recently learned of these charges through Ms. Baraki's lawyer and through an Eritrean newspaper article which, UNICEF has since been advised, is the official position of the authorities. Ms. Beraki was apparently accused of misappropriating UNICEF materials. UNICEF is presently awaiting a copy of the verdict from the court. The Executive Director of UNICEF had sent Mr. Manou Assadi as his Special Envoy to Asmara from 1-7 August 1992 to look into the case of Ms. Beraki.

C. United Nations Economic Commission for Africa

Arrests and detentions

32. On 17 January 1992, Mr. Paul Were, a Kenyan national, was detained overnight by Government forces. On 22 January 1992, a note verbale was sent to the Ministry of Foreign Affairs. On 30 January 1992, the Designated Official was informed verbally that a reply would be forthcoming as soon as the investigation had been completed. On 18 March 1992, the Chief of Protocol, in a conversation with the Designated Official, implied that verbal explanations given to the Field Security Officer on several occasions had been understood to have constituted an adequate reply.

33. On 29 December 1991, an Ethiopian staff member was detained and beaten by the authorities. He was temporarily released on 1 and 2 January 1992 for medical examination. A note verbale was sent to the Ministry of Foreign Affairs on 2 January 1992. He was released on 4 January 1992, but detained again on 15 January 1992. He was released on 31 January 1992 on bail and after paying a fine of 800 Ethiopian birr for possession of a firearm without a licence.

34. On 29 August 1991, a United Nations official vehicle and staff from the Communications and Records Unit were held at Bole International Airport, and later released.

35. On 13 August 1991, an Ethiopian staff member was detained for five days for questioning about the whereabouts of her husband who was wanted by the Government. Another Ethiopian staff member was detained for two days in July and his house was searched.

36. Four local staff members from the World Food Programme were detained in September 1991. A note verbale was sent out on 28 November 1991. Three of them were released six months later. One staff member remains in detention.

Shooting incidents

37. Five staff members of the Economic Commission for Africa had their cars shot at by government troops between August 1991 and April 1992. The spouse of one of the staff members was seriously injured. Three notes verbales were

sent about these cases but no responses have been received. A driver of the United Nations Development Programme had his official car shot at in March 1992 and he was beaten by government forces. The vehicle was seriously damaged.

Attempted entry by government troops

38. Troops attempted entry into 10 residences occupied by staff members of ECA, including that of the Executive Secretary (on two occasions). In addition, they tried to gain access to the ECA compound in April 1992. A note verbale was sent to the Government, to which there has been no reply.

Threats received

39. Two staff members from the World Health Organization and one from ECA were threatened at gunpoint by government soldiers.

40. Four ECA staff members received threats by letter and telephone. Two notes verbales about one of these cases were sent to the Ministry but a reply has not been received.

Robberies

41. Thirteen cases of robberies of staff members and 13 cases of attempted burglary of staff members' houses were reported.

42. There were two car accidents reported involving ECA staff members and armed forces personnel.

43. An ECA staff member had stones thrown at his residence on two occasions causing damage to the house.

44. An ECA staff member was attacked and injured by an unknown assailant in the Hilton Hotel car park in March 1992.

D. United Nations Truce Supervision Organization

45. A 2 per cent ad valorem wharfage charge is levied by the Israeli port authorities in addition to charges for the specific services of the port and the fees of clearing agents. According to the Director of the Israeli Port Authority, it is a charge for the general purposes of the port. Requests by UNTSO to the Israeli Ministry of Foreign Affairs for the Port Authority to stop this charge have been unsuccessful. The Legal Section of the Ministry admits it is a charge for the general purposes of the port but maintains that it is not a tax because use of the port constitutes use of a service.

46. Despite representations to the Foreign Ministry, the Israeli authorities continue to levy exit tax at Rafah on UNTSO personnel travelling to Egypt on duty. UNTSO staff are reimbursed by the United Nations.

47. From time to time Israeli municipalities request UNTSO to pay municipal taxes. UNTSO pays only itemized charges for specific services such as water, electricity, etc. Israeli legislation specifically exempts the United Nations from municipal tax and service charges (called ARNONA) without qualification.

E. Food and Agriculture Organization of the United Nations

48. No further information could be obtained on the cases of Mr. Daulat Mir, Mr. Saleem Hairan, and Mr. Mohammed Oma (Afghanistan) and Mr. Abel Nyrenda (Zambia) referred to in the report to the forty-sixth session of the General Assembly (A/C.5/46/4, annex II).

49. One case of restriction on official and private travel was reported during the period under review. It concerns an FAO Senior Technical Adviser involved in a car accident in the Republic of Yemen who was denied permission to leave the country pending settlement of the case.

50. In Barbados and Benin, attempts were made to levy taxes on salaries and emoluments paid to FAO officials by the Organization. Various cases of taxation or of attempts at taxation were also reported in Canada, France and Israel.

F. United Nations Industrial Development Organization

51. On 12 September 1991 at 16.30 hours, Mr. Hugues Olivier, UNIDO Country Director in Abidjan, was attacked at gunpoint in broad daylight. Mr. Olivier fortunately was uninjured. His wallet with FCFA 45,000, his watch and the official car, were stolen. The car, damaged inside, was found abandoned later in the street but Mr. Olivier's briefcase had been opened and diplomatic papers, some more money, car papers as well as office and car keys were missing. The full police report in respect of the above-mentioned case was reported to United Nations Headquarters.

52. In Egypt, a work permit and a fee has been and continues to be required of UNIDO officials having Egyptian citizenship as a condition for their departure from Egypt for the purpose of returning to their duty station at UNIDO headquarters in Vienna or elsewhere.

53. In the Islamic Republic of Iran, the practice of levying a statutory exit tax on all officials of UNIDO who are of Iranian nationality infringes the Convention on the Privileges and Immunities of the United Nations which is applicable also to UNIDO in view of article 21 of UNIDO's Constitution.

54. In Sudan, an obligatory national contribution of up to US$ 400, depending on the level of education attained by the individual concerned, as well as charges for the improvement of education and information services, are imposed upon issuance of an exit visa, the renewal of a passport and any other consular action.

55. In Syria, a fee for each year of residence abroad in the amount of US$ 150-250 or US$ 3,550 is levied upon nationals of the Syrian Arab Republic who are employees of international organizations.

G. United Nations/FAO World Food Programme

56. Turkey. On 10/11 April 1992, a WFP staff member working in the United Nations High Commissioner for Refugees/World Food Programme office in Silope came under heavy fire from reportedly armed Turkish police vehicles. Nobody was hurt but damage to cars and buildings was considerable. An investigation was carried out by the United Nations Security Coordinator from 15 to 25 April 1992 which blamed the incident on cross-fire between Kurdish rebels and armed Turkish police.

57. Somalia. Several incidents have been reported during the period under review involving WFP staff who were caught in the fighting between the various militia factions in Somalia (in Mogadishu as well as in the north). Fortunately, none of the staff was wounded or arrested.

58. Sudan. WFP staff operating in areas held by the Sudan People's Liberation Army (SPLA) in southern Sudan have come several times under attack and were briefly held captive by some of the fighting factions. The latest incidents were reported in Kapoeta in March 1992 when 14 staff of the United Nations/NGO/Operation Lifeline Sudan were prevented from leaving; and in Baliet in April 1992, involving 24 persons. All of them were later released and are safe.

59. Afghanistan. During the recent events in Afghanistan, the WFP office in Kabul was hit by several rockets causing damage but no loss of life or injuries.

60. Pakistan. A WFP staff member, Mr. Kimio Kasashima, was shot dead on 14 June 1992 in Peshawar by an unknown assailant in front of his house. Official reports on the investigation are still awaited.

61. The Secretary-General reiterated that although the United Nations and other organizations of the United Nations system make every effort to ensure security and protection of their staff, the primary responsibility for these matters rests with the host Government. This responsibility flows from every Government's normal and inherent function of maintaining order and protecting persons within their jurisdiction. In the case of the United Nations and other international organizations and their officials, the Governments are considered to have a special responsibility under Article 105 of the Charter of the United Nations and the respective agreements of Governments with individual organizations.

62. Although not mentioned in this year's report of the Secretary-General to the Fifth Committee, the case of Mr. Jiang Yue, a staff member in the Division of Languages of the International Atomic Energy Agency, was cited in the report of the Secretary-General to the Commission's forty-seventh session (E/CN.4/1991/18, para. 40).

63. The Chinese Government replied on 16 January 1992 to the request for information on the whereabouts of Mr. Jiang Yue, who had been prevented since 1989 from leaving his country to resume work, as follows:

> "Jiang Yue, an employee of the China Nuclear Information Centre, went to work at the International Atomic Energy Agency in February 1988 and returned home in June 1989. At present Jiang is working normally at the China Nuclear Information Centre and enjoys all the rights and freedoms encompassed within the Chinese Constitution, law and regulations."

In the meantime, the International Atomic Energy Agency has decided not to renew the contract of Mr. Jiang Yue which expired on 26 February 1992. Mr. Jiang Yue has appealed this decision.

Information provided by staff representatives

64. The staff representatives of the United Nations Secretariat presented information on the independence of the International Civil Service to the General Assembly in the above-mentioned note (A/C.5/47/20, chap. I). That information included a comprehensive list of 298 staff members whose rights had been violated by 20 States Members of the United Nations; 134 of them have been released in the meantime. The majority of the cases reported concerned staff members of UNRWA who were working in the West Bank and Gaza Strip. The note referred to the increase in the number of killings of staff members on duty which had never been so high in the history of the Organization.

65. The staff considered it essential that the legal and human rights of the staff of the Organization be upheld. The Organization must be allowed access to all staff who were detained. A United Nations medical team must also be allowed regular access, and due process of law must be assured, with proper legal representation in accordance with the relevant articles of the Universal Declaration of Human Rights.

66. It was also essential that violations be reported rapidly. The organizations should establish a centralized database which should include the medical records and all other relevant information on each case in order to facilitate consistent follow-up by Member States, the Organization and staff unions in the event of arrest, detention or disappearance.

67. In addition, in order to maintain a legal link with any illegally detained staff members it is vital that their contract with the Organization be automatically continued, regardless of length or type, until the matter is satisfactorily resolved and the Organization has been able to fulfil its obligations towards them.

68. Another subject of grave concern to the staff is what happens to detainees once they are released. Every effort should be made to normalize their situation by reintegrating them as quickly as possible and providing the rehabilitation often required for those who have endured physical or psychological abuse. It is appalling to witness the dilemma of released colleagues trying to re-establish themselves within the international civil service. Some have resigned in disillusionment, some continue their struggle

through the cumbersome system of the administration of justice, while others are left to rely on the goodwill of individual administrators. The Organization must establish procedures to deal with such cases.

69. Discussion in the Fifth Committee of the report of the Secretary-General contained in A/C.5/47/14. In the debate on item 112 b "Personnel questions", the representative of the United States of America in a statement on 5 November 1992, pointed out that it was the responsibility of Member States to ensure the security and protection of United Nations personnel. Member States needed to continue to support the efforts of the Secretary-General to gain freedom for all United Nations staff currently reported missing or detained without due process and to urge the cooperation of all responsible authorities to achieve this end. The representative also expressed her concern where immediate access to and an explanation for the arrest and detention of staff were not provided. In this connection, she supported the proposals put forward by the inter-agency meeting on security measures, held in May 1992.

II. CASES RECENTLY CLARIFIED

70. The efforts undertaken by the Secretary-General, the respective heads of the organizations concerned, designated officials and officials in the field have resulted in the release of many staff members previously reported as being under arrest or detention. They have also contributed to a number of positive developments with regard to some cases in which the organizations have been unable in the past to exercise their right of protection of staff members.

71. Mr. Ali Said Shihabi, who had been detained in the Syrian Arab Republic since 31 March 1982, was finally released on 15 December 1991. Mr. Shihabi was subsequently re-employed by UNRWA as a teacher. Mr. Marwan Ismail Hubeib, who was arrested on 21 December 1988 in the occupied West Bank and since then has been detained without charge or trial, was released on 28 September 1991.

72. The Secretary-General regrets, however, to report a lack of progress in respect of other long-standing cases. Mr. Abdallah Daker Hayatli and Mr. Izzedine Hussein Abu Khreish, arrested in the Syrian Arab Republic on 20 April 1980 and 11 September 1980 respectively, still remain in detention. There has been no further information regarding the four UNRWA staff members listed in last year's report who were detained in Lebanon by militias or unknown elements. They are Mr. Mahmoud Hussein Ahmad, detained since 22 March 1983, Mr. Mohammad Ali Sabbah, detained since 22 March 1983, Mr. Alec Collett, detained since 25 March 1985 and Mr. Mohammad Mustafa El-Hajj Ali, detained since 28 November 1986.

III. OTHER MATTERS INVOLVING THE STATUS, PRIVILEGES AND IMMUNITIES OF OFFICIALS

Privileges and immunities of officials

73. The Commission on Human Rights at its forty-seventh session in 1991 adopted resolution 1991/33, entitled "Status of special rapporteurs and representatives, independent experts, members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and members of working groups established by the Commission on Human Rights". In this resolution the Commission, inter alia, stressed the need for experts on mission for the United Nations to enjoy the necessary privileges and immunities contained in the 1946 Convention on the Privileges and Immunities of the United Nations in order to exercise their functions in a fully independent manner.

74. In paragraph 1, the Commission requested the Secretary-General to take the necessary measures in order to ensure that all special rapporteurs and representatives, independent experts, members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and members of working groups established by the Commission on Human Rights be considered as "experts on mission" within the context of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations, and in this regard urged States to comply with their obligations under the Convention.

75. In addition, it requested him, in paragraph 2, to take the necessary measures in order to ensure the prescribed protection for officials of the United Nations Secretariat accompanying special rapporteurs and representatives, independent experts, members of the Sub-Commission and members of working groups established by the Commission on Human Rights on field missions, and to report to the Commission on Human Rights at its forty-eighth session on the measures taken in that regard.

76. The Secretary-General subsequently presented his report on the issue (E/CN.4/1992/13) to the Commission at its forty-eighth session. Regarding the implementation of paragraph 1 of the resolution, the report made reference, inter alia, regarding the implementation of paragraph 1 of the resolution, to the letter of invitation sent by the Under-Secretary-General for Human Rights to members of the Sub-Commission attending the forty-third session in 1991. The letter contained the following paragraph:

> "The Sub-Commission plays a major role in the United Nations human rights programme and I attach the utmost importance to its activities and deliberations, as well as to the independence and security of its members. They are appointed in their personal capacity and considered as experts on mission who enjoy the privileges and immunities set out in article VI, section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and in article VI, section 19, of the Agreement on the Privileges and Immunities of the United Nations of 19 April 1946 concluded between the Swiss Federal Council and the Secretary-General of the United Nations."

77. With regard to the implementation of paragraph 2, reference was made to the report of the Secretary-General submitted to the Fifth Committee at the forty-sixth session of the General Assembly on respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations (A/C.5/46/4).

78. In paragraph 4 of the report the Secretary-General stated, inter alia, that in order to carry out assignments

> "staff members of the organizations of the United Nations system have often had to operate under difficult and dangerous conditions. Therefore, as was stressed in [General Assembly] resolution 45/240, respect for the privileges and immunities of officials of the organizations of the United Nations system is becoming even more important in these times."

Furthermore, paragraph 5 of that report reads:

> "Although privileges and immunities of officials are scrupulously respected by a great majority of Member States, there are areas where difficulties still continue to arise. In submitting the information about the cases in which the international status of officials of the organizations of the United Nations system has not been fully respected, the Secretary-General expresses the hope that consideration of the report will help to avoid the occurrence of such incidents in the future."

79. In his statement before the Fifth Committee on 30 October 1992 the Legal Counsel referred to Security Council resolution 767 (1992) of 27 July 1992 concerning humanitarian assistance to Somalia in which the Council reiterated its call for the full respect for the security and safety of the personnel involved in this assistance and affirmed that all officials of the United Nations and all experts on mission for the United Nations in Somalia enjoy the privileges and immunities provided for in the Convention on Privileges and Immunities of the United Nations and in any other relevant instruments.

IV. ACTION AND PROPOSALS TO FURTHER RESPECT THE HUMAN RIGHTS OF INTERNATIONAL CIVIL SERVANTS

80. In his report to the Fifth Committee the Secretary-General referred to an inter-agency meeting held in May 1992 at the request of the United Nations High Commissioner for Refugees to devise common approaches and procedures to ensure that the best possible security arrangements are in place for staff members.

81. On the basis of the discussions the meeting recommended that, in the light of the changing security situation, in addition to the existing measures, the United Nations Security Coordinator, after an appropriate review, should determine in which countries it is desirable to appoint area coordinators to ensure the safety and security of outposted staff.

82. The Special Rapporteur of the Sub-Commission, presenting her final report on the protection of the human rights of United Nations staff members, experts and their families, included a detailed set of recommendations. In view of

the fact that the Commission is invited to act on those recommendations they are reproduced in their entirety in order to facilitate the discussion.

1. Information

83. The Special Rapporteur endorses the recommendation by the FAO that regularly updated information concerning the situation of the various regional and universal human rights instruments should be communicated to the various organizations: this would enable them, when taking action to ensure the protection of their personnel, to invoke the relevant provisions. In order to facilitate their implementation, the Special Rapporteur recommends that the appropriate excerpts from these instruments should be appended to the Security Handbook - and to the corresponding texts used by the specialized agencies, together with a list of ratifications and simple instructions concerning implementation of the relevant provisions.

84. The Special Rapporteur strongly recommends the immediate establishment of a better coordinated and more detailed system of information on cases of infringements of the human rights of staff members of the international organizations and their families. This system must be placed under the responsibility of the United Nations Security Coordinator. The specialized agencies and other organizations should be reminded that they are required to inform the Secretary-General without delay, in order that he may have precise, comprehensive and authoritative information on the various cases.

85. The information system should contain factual information on each case which may be consulted by any interested person or association, together with information on the handling of the situation, available only to authorized persons and intended to constitute a database for the handling of similar cases and the definition of more appropriate guidelines.

86. The Special Rapporteur notes that a list of detained staff members is contained in the annex to the annual report of the Secretary-General to the General Assembly. Reports of detained staff members should contain the following information:

(a) The name and nationality of the person arrested or detained, his or her employment status with, and official function for, the United Nations; for family members the family relationship must be given;

(b) The time, place and other circumstances of the arrest or detention;

(c) The legal expression or term used by the applicable local law to describe the arrest or detention;

(d) The legal grounds for the arrest or detention, including any charges against the person concerned;

(e) The name of the governmental agency, such as a court or an administrative authority, under whose authority the measure was taken;

(f) Whether a representative of the United Nations has been or will be given access to the person arrested or detained; in the affirmative, any request or other reaction from the person concerned shall also be conveyed;

(g) Whether consular protection and/or legal counsel is or will be available to the person arrested or detained; in the affirmative, the identity of these services shall be conveyed.

87. In addition to these elements, the Special Rapporteur would suggest that information be included on the health of the person or persons under detention and on any specific measures which should be taken in that regard.

2. Action to be taken in case of grave violation of human rights

88. In cases where staff members are held in their country of origin against their will or are arrested without the Secretary-General or Director-General of the organization in question having an assurance that the arrest was not motivated by the action of the person concerned as a staff member, the Special Rapporteur recommends that the Secretary-General or Director-General should freeze recruitment of nationals of the country concerned until such time as the situation is satisfactorily resolved.

89. The Special Rapporteur draws attention to paragraph 117 of the United Nations Security Handbook, under which, if the arrest or detention of a staff member of a United Nations agency constitutes a manifest violation of privileges and immunities and if the organization employing the staff member has not been able to fulfil its obligations towards him, the Secretary-General requests the heads of secretariat of the organizations executing programmes in the country in question to suspend all their activities with the exception of those of a purely humanitarian nature and to cancel further missions until the problem is resolved. She recommends that the Secretary-General should consider, with the executive heads of the specialized agencies, means of implementing this measure.

90. The Special Rapporteur draws attention to the proposal submitted by the United Nations Development Programme that member States should firmly undertake to ensure that the authorized official of an organization or a representative designated by him should be able to visit an arrested staff member within 24 hours of his arrest, and that the Government should officially explain the reasons for the arrest and notify the place of detention of the person concerned within 48 hours. Changes in places of detention should also be notified within the same time-limit.

91. The Special Rapporteur strongly recommends the establishment of independent boards of enquiry to investigate the killings of United Nations officials as recommended by the Task Force on the Independence and Security of the International Civil Service and strongly supported by the Coordinating Committee for Independent Staff Unions and Associations (CCISUA) and the Federation of International Civil Service Associations (FICSA). In addition, names of all staff members who have disappeared or have been killed should be maintained on the list presented by the Secretary-General to the General Assembly.

3. Compensation

92. It is unjust that damage suffered in the performance of the activities and programmes undertaken by the United Nations or specialized agencies and caused by States following the arrest or detention of staff members should be borne by the international community as a whole. The Special Rapporteur recommends that the Secretariat should consider ways and means of implementing the principles established by the International Court of Justice in its advisory opinion of 11 April 1949 on compensation for damage suffered in the service of the United Nations, with a view to compensating damage suffered by the organization and by the staff member or his rightful claimants, and submit a report on this matter to the competent bodies.

4. Rehabilitation and preservation of statutory rights

93. The Special Rapporteur acknowledges that when a United Nations official has been set free, although his or her physical ordeal may have ended there remain very many invisible obstacles to the full rehabilitation and reintegration of the staff member. The Special Rapporteur, conscious of the fact that ad hoc measures do not satisfactorily resolve these problems, recommends that the United Nations Security Handbook, the Staff Rules and any other appropriate document of similar juridical value be amended to include adequate provisions to cover rehabilitation and indemnification of staff members and their families in case of illness, invalidity or death attributable to arrest, detention or abduction. Staff members should be fully maintained in their statutory rights from the day they are prevented from accomplishing their functions because of detention or imprisonment.

5. Security while on mission

94. The Special Rapporteur is aware that several peace-keeping operations are currently under way in various parts of the world. In view of the increasing risk of violations of human rights of United Nations staff members called upon to serve in conflict areas all over the world, the Special Rapporteur expresses the hope that every precaution necessary to ensure staff members' security has been taken.

95. The Special Rapporteur welcomes the decisions, taken by the Staff Management Coordinating Committee (SMCC) at its last session held from 15 to 19 June 1992, to take the necessary steps to enhance security measures within the United Nations Secretariat.

96. While recognizing the need to provide continuing political, humanitarian and emergency assistance to populations at risk, the Special Rapporteur considers that it is absolutely essential that staff involved in these missions be properly informed and suitably trained so as to ensure their security and effectiveness in accomplishing their functions. The Special Rapporteur therefore recommends that training modules be developed for designated officials, area coordinators and staff at large on security issues such as early warning, precautionary measures and how to react in certain situations.

6. Follow-up

97. The Special Rapporteur supports the efforts made by the Working Group on the Methods of Work of the Sub-Commission. She realizes that one of the key questions in this regard relates to the follow-up of final reports. The mandate of the Special Rapporteur expires this year, but an issue so closely connected with the very functioning of the United Nations system should not be abandoned.

98. In that connection, the Special Rapporteur wishes to express her concern that the report of the Secretary-General on the Respect for the Privileges and Immunities of Officials of the United Nations and the Specialized Agencies and Related Organizations will henceforth be examined only on a biennial basis. The list (see para. 86 above) prepared by the Secretary-General containing the names of United Nations officials whose basic rights had not been observed by Governments has over the years become a key reference for all those interested in this issue. It is her conviction that examination of this report on a biennial basis will be detrimental to the fate of staff members working under hardship conditions. The Special Rapporteur suggests that the Commission on Human Rights examine the human rights situation of United Nations and specialized agency staff members and their families as well as the measures taken or contemplated to protect their basic rights.

99. The Special Rapporteur endorses the recommendations, contained in the report of the Inter-Agency Meeting on Security Matters (Geneva, 12-15 May 1992) to the Administrative Committee on Coordination. She welcomes the timely convening of this meeting and recommends that similar meetings be held on a regular basis so as to ensure that matters related to the security and independence of staff members are given the highest priority and attention.

100. Finally, she expresses the hope that whatever follow-up will be chosen, the adequate functioning of the United Nations should be taken into consideration; however, to achieve such a goal it is indispensable that the staff members can fulfil the task entrusted to them without interference and in conditions of security.

Annex

CONSOLIDATED LIST* OF STAFF MEMBERS UNDER ARREST AND DETENTION OR MISSING AND WITH RESPECT TO WHOM THE UNITED NATIONS AND THE SPECIALIZED AGENCIES AND RELATED ORGANIZATIONS HAVE BEEN UNABLE TO EXERCISE FULLY THEIR RIGHT TO PROTECTION

Name	Agency	Place and date of incident
Mr. Abdala Daker Hayatli	UNRWA	Missing in the Syrian Arab Republic since 20 April 1980
Mr. Izzedine Hussein Abu Khreish	"	Detained in the Syrian Arab Republic since 11 September 1980
Mr. Mahmoud Hussein Ahmad	"	Missing in Lebanon since 22 March 1983. Reportedly detained by militias or unknown elements
Mr. Mohammad Ali Sabbah	"	Missing in Lebanon since 22 March 1983. Reportedly detained by militias or unknown elements
Mr. Daulat Mir	FAO	Detained on 28 August 1984 and subsequently conscripted into military service in Afghanistan
Mr. Alec Collett	UNRWA	Detained in Lebanon by militias or unknown elements since 25 March 1985
Mr. Mohammad Mustafa El-Hajj Ali	"	Missing in Lebanon since 28 November 1986. Reportedly detained by militias or unknown elements

---

* The consolidated list contains in chronological order the names of staff members who remained under detention or were missing as of 30 June 1992. This list, however, was not compiled to provide information on all cases of staff members who have been arrested, detained or missing in the past or on the cases where staff members have lost their lives in the performance of official duties.

Name	Agency	Place and date of incident
Mr. Saleem Hairan	FAO	Detained and conscripted on 27 January 1988 into military service in Afghanistan
Mr. Ibrahim Fawzi El-Kurd	UNRWA	Detained in the occupied Gaza Strip since 17 April 1988
Mrs. Zainab Aw Jama Adan	WFP	Missing in Somalia since 4 June 1988
Mr. Yusef Ismail Shaban	UNRWA	Detained in the occupied West Bank since 8 August 1988
Mr. Fayez Nour Salha	"	Detained in the occupied Gaza Strip since 21 November 1988
Mr. Mohammed Omar	FAO	Detained and conscripted on 17 May 1989 into military service in Afghanistan
Mr. Nabil Ibrahim El Sawalhi	UNRWA	Detained in the occupied Gaza Strip since 18 May 1989
Mr. Ismail Hasan Abu Shanab	"	Detained in the occupied Gaza Strip since 30 May 1989
Mr. Awni Mohammad Abu Saif	"	Detained in the occupied Gaza Strip since 31 May 1989
Mr. Nawwaf Jamil Awwad	"	Detained in the occupied Gaza Strip since 1 August 1989
Mr. Dawoud Sulaiman El Mudallal	"	Detained in the occupied Gaza Strip since 2 August 1989
Mr. Abdul Fattah	WFP	Abducted in Pakistan by unknown elements on 3 September 1989
Mr. Khaled Abdul Rahman Matar	UNRWA	Detained in the occupied Gaza Strip since 21 November 1989
Mr. Jamil Yusuf Ulayyan	"	Detained in the occupied Gaza Strip since 3 December 1989
Mr. Suhail Said El Hasheem	"	Detained in the occupied Gaza Strip since 30 March 1990

Name	Agency	Place and date of incident
Mr. Ahmad Mohamed Ali	WFP	Detained in Somalia by the Somali National Security Service since 25 May 1990
Mr. Salameh Salim Rihan	UNRWA	Detained in the occupied West Bank since 1 June 1990
Mr. Abdel Ali Abu Ghali	"	Detained in the occupied Gaza Strip since 25 August 1990
Mr. Abdalla Ismail Abu Shawareb	"	Detained in the occupied Gaza Strip since 6 November 1990
Mr. Husni Mohammad Ahmad Borini	"	Detained in the occupied West Bank since 23 December 1990
Mr. Suheil Hasan Al Sayyed	"	Detained in the occupied Gaza Strip since 3 January 1991
Mr. Abdalla Yusuf Awad	"	Detained in the occupied Gaza Strip since 7 January 1991
Mr. Mahdi Musa El Dawahidi	"	Detained in the occupied Gaza Strip since 10 January 1991
Mr. Juma Salim El Haj Ahmad	"	Detained in the occupied Gaza Strip since 14 January 1991
Mr. Nafez Suleiman El Jub	"	Detained in the occupied Gaza Strip since 14 January 1991
Mr. Kamal Abdul Rahman Salem	"	Detained in the occupied West Bank since 14 April 1991
Mr. Mohammad Zaki El Atawneh	"	Detained in the occupied Gaza Strip since 3 June 1991
Mr. Sufiyan Saed Eddin Dasouqi Jaber	"	Detained in the occupied West Bank since 9 August 1991
Mr. Ghassan Musaed El Arabid	"	Detained in the occupied Gaza Strip since 11 August 1991
Mr. Kassu Asgedon	WFP	Detained in Ethiopia since 4 September 1991

Name	Agency	Place and date of incident
Mr. Khaled Mohammad Al Sheikh Id	UNRWA	Detained in the occupied Gaza Strip since 12 November 1991
Mr. Ahmad Mohammad Hamdan	"	Detained in the occupied Gaza Strip since 22 December 1991
Mr. Husni Mohammad El Ajrami	"	Detained in the occupied Gaza Strip since 16 January 1992
Mr. Hassan Ahmad Mansour	"	Detained in the occupied Gaza Strip since 11 February 1992
Mr. Ayyoub A. Aziz Khaddoura	"	Detained in the occupied Gaza Strip since 18 February 1992
Mr. Samih Ahmad Hamdan	"	Detained in the occupied Gaza Strip since 4 May 1992
Mr. Adel Loubani	"	Detained in Lebanon by the Syrian armed forces since 26 May 1992
Mr. Mohammad A. Raouf Raba	"	Detained in the occupied Gaza Strip since 22 June 1992

- - - - -